

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

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JEFFREY DEMOSTHENE,

Plaintiff,

**MEMORANDUM & ORDER**

18-CV-1358 (EK) (PK)

-against-

THE CITY OF NEW YORK, DETECTIVE KEVIN  
GOODSPEED, DETECTIVE ANTHONY PULEO,  
DETECTIVE JOHN ROBERTS, et al.,

Defendants.

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ERIC KOMITEE, United States District Judge:

The Court has received Magistrate Judge Kuo's Report and Recommendation (R&R) dated November 13, 2020. Minute Entry dated 11/13/2020. Judge Kuo recommends that the Court grant Defendants' motion to dismiss Plaintiff's complaint for failure to prosecute. ECF No. 93. Neither party has filed objections and the time to do so has expired. Accordingly, the Court reviews the R&R for clear error on the face of the record. See Advisory Comm. Notes to Fed. R. Civ. P. 72(b); *accord Gesualdi v. Mack Excavation & Trailer Serv., Inc.*, No. 09-CV-2502, 2010 WL 985294, at \*1 (E.D.N.Y. Mar. 15, 2010). Having reviewed the record, the Court finds no clear error. Plaintiff's inaction has caused significant delay throughout these proceedings. He received two explicit warnings that failure to comply with Judge Kuo's orders would result in a recommendation that the case be

dismissed. Minute Entry dated 9/25/2020; Minute Entry dated 10/23/2020. The Court finds that Defendants are likely to be prejudiced by continued delay. After Plaintiff failed to attend his own deposition, the Court granted him two opportunities to appear at scheduled conferences. Plaintiff was therefore provided sufficient opportunity to be heard, when balanced against the Court's need to avoid calendar congestion. Given Plaintiff's repeated disregard for the Court's instructions, no sanction less severe than dismissal will suffice. Accordingly, the Court adopts the R&R in its entirety pursuant to 28 U.S.C. § 636(b) (1). Therefore, Plaintiff's complaint is dismissed for failure to prosecute. The Clerk of Court is respectfully directed to enter judgment and close this case.

SO ORDERED.

/s Eric Komitee  
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ERIC KOMITEE  
United States District Judge

Dated: December 8, 2020  
Brooklyn, New York